

Senate Bill 531

By: Senators Rogers of the 21st, Hudgens of the 47th and Chapman of the 3rd

AS PASSED

AN ACT

To amend Code Section 33-7-11 of the Official Code of Georgia Annotated, relating to uninsured motorist coverage under motor vehicle liability policies, so as to change certain provisions relating to damages recoverable by an insured under uninsured motorist coverage; to provide a definition; to change certain provisions relating to service upon an owner or driver by publication of summons and service as prescribed by law upon an insurance company; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 33-7-11 of the Official Code of Georgia Annotated, relating to uninsured motorist coverage under motor vehicle liability policies, is amended by striking paragraphs (1) and (2) of subsection (a) and inserting in lieu thereof the following:

"(a)(1) No automobile liability policy or motor vehicle liability policy shall be issued or delivered in this state to the owner of such vehicle or shall be issued or delivered by any insurer licensed in this state upon any motor vehicle then principally garaged or principally used in this state unless it contains an endorsement or provisions undertaking to pay the insured damages for bodily injury, loss of consortium or death of an insured or for injury to or destruction of property of an insured under the named insured's policy sustained from the owner or operator of an uninsured motor vehicle, within limits exclusive of interests and costs which at the option of the insured shall be:

(A) Not less than \$25,000.00 because of bodily injury to or death of one person in any one accident, and, subject to such limit for one person, \$50,000.00 because of bodily injury to or death of two or more persons in any one accident, and \$25,000.00 because of injury to or destruction of property; or

(B) Equal to the limits of liability because of bodily injury to or death of one person in any one accident and of two or more persons in any one accident, and because of injury to or destruction of property of the insured which is contained in the insured's personal

coverage in the automobile liability policy or motor vehicle liability policy issued by the insurer to the insured if those limits of liability exceed the limits of liability set forth in subparagraph (A) of this paragraph. In any event, the insured may affirmatively choose uninsured motorist limits in an amount less than the limits of liability.

(2) The coverages for bodily injury or death or for injury to or destruction of property of an insured person, as provided in paragraph (1) of this subsection, may be subject to deductible amounts as follows:

(A) For bodily injury or death, deductibles of \$250.00, \$500.00, or \$1,000.00, at the option of any named insured in the policy. Deductibles above \$1,000.00 may be offered, subject to approval of the Commissioner;

(B) For injury to or destruction of property of the insured, deductibles of \$250.00, \$500.00, or \$1,000.00, at the option of any named insured in the policy. Deductibles above \$1,000.00 may be offered, subject to the approval of the Commissioner;

(C) Deductible amounts shown in subparagraphs (A) and (B) of this paragraph may not be reduced below \$250.00;

(D) Deductible amounts shown in subparagraphs (A) and (B) of this paragraph shall be made available at a reduced premium; and

(E) Where an insurer has combined into one single limit the coverages required under paragraph (1) of this subsection, any deductible selected under subparagraphs (A) and (B) of this paragraph shall be combined and the resultant total shall be construed to be a single aggregate deductible.

(3) The coverage required under paragraph (1) of this subsection shall not be applicable where any insured named in the policy shall reject the coverage in writing. The coverage need not be provided in or supplemental to a renewal policy where the named insured had rejected the coverage in connection with a policy previously issued to said insured by the same insurer. The amount of coverage need not be increased in a renewal policy from the amount shown on the declarations page for coverage existing prior to July 1, 2001. The amount of coverage need not be increased from the amounts shown on the declarations page on renewal once coverage is issued.

(4) The filing of a petition for relief in bankruptcy under a chapter of Title 11 of the United States Code by an uninsured motorist as defined in this Code section, or the appointment of a trustee in bankruptcy for an uninsured motorist as defined in this Code section, or the discharge in bankruptcy of an uninsured motorist as defined in this Code section shall not affect the legal liability of an uninsured motorist as the term 'legal

liability' is used in this Code section, and such filing of a petition for relief in voluntary or involuntary bankruptcy, the appointment of a trustee in bankruptcy, or the discharge in bankruptcy of such an uninsured motorist shall not be pleaded by the insurance carrier providing uninsured motorist protection in bar of any claim of an insured person as defined in this Code section so as to defeat payment for damages sustained by any insured person by the insurance company providing uninsured motorist protection and coverage under the terms of this chapter as now or hereafter amended; but the insurance company or companies shall have the right to defend any such action in its own name or in the name of the uninsured motorist and shall make payment of any judgment up to the limits of the applicable uninsured motorist insurance protection afforded by its policy. In those cases the uninsured motorist upon being discharged in bankruptcy may plead the discharge in bankruptcy against any subrogation claim of any uninsured motorist carrier making payment of a claim or judgment in favor of an uninsured person, and the uninsured motorist may plead said motorist's discharge in bankruptcy in bar of all amounts of an insured person's claim in excess of uninsured motorist protection available to the insured person."

SECTION 2.

Said Code section is further amended by striking subparagraph (b)(1)(B) and inserting in lieu thereof a new subparagraph (b)(1)(B) to read as follows:

"(B) 'Insured' means the named insured and, while resident of the same household, the spouse of any such named insured and relatives of either, while in a motor vehicle or otherwise; any person who uses, with the expressed or implied consent of the named insured, the motor vehicle to which the policy applies; a guest in such motor vehicle to which the policy applies; or the personal representatives of any of the above. For policies issued or renewed on or after July 1, 2006, the term 'insured' shall also mean a foster child or ward residing in the household of the named insured pursuant to a court order, guardianship, or placement by the Department of Family and Children Services or other department or agency of the state, while in a motor vehicle or otherwise."

SECTION 3.

Said Code section is further amended by striking subsection (e) and inserting in lieu thereof the following:

"(e) In cases where the owner or operator of any vehicle causing injury or damage is known and either or both are named as defendants in any action for such injury or damages but the person resides out of the state, has departed from the state, cannot after due diligence be found within the state, or conceals himself to avoid the service of summons, and this fact shall appear by affidavit to the satisfaction of the judge of the court, and it shall appear either by affidavit or by a verified complaint on file that a claim exists against the owner or driver in respect to whom service is to be made and that he is a necessary or proper party to the action, the judge may grant an order that the service be made on the owner or driver by the publication of summons. A copy of any action filed and all pleadings thereto shall be served as prescribed by law upon the insurance company issuing the policy as though the insurance company issuing the policy were actually named as a party defendant. Subsection (d) of this Code section shall govern the rights of the insurance company, the duties of the clerk of court concerning duplicate original copies of the pleadings, and the return of service. Following service on the owner or driver by the publication of the summons as provided in this subsection and service as prescribed by law upon the insurance company issuing the policy, the plaintiff shall have a continuing duty to exercise diligence in attempting to locate the owner or driver against whom the claim exists, but such obligation of diligence shall not extend beyond a period of 12 months following service upon the owner or driver by publication of the summons. However, regardless of such time limitations, should the plaintiff learn of the location of the owner or driver against whom the claim exists, the plaintiff shall exercise due diligence to effect service of process upon that owner or driver within a reasonable time period after receiving such information."

SECTION 4.

This Act shall become effective on July 1, 2006; and Section 1 of this Act shall apply to all policies issued, delivered, or issued for delivery in this state on and after such date.

SECTION 5.

All laws and parts of laws in conflict with this Act are repealed.